



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

August 5, 1948

**Hon. Homer Dean, Jr.
County Attorney
Jim Wells County
Alice, Texas**

Opinion No. V-649

**Re: Assessment of costs
after placing an adult
defendant on probation
in a salary county.**

**Attention: Hon.
Parker Ellzey**

Dear Sir:

We refer to your letters in which you ask if costs should be assessed against a defendant who has been placed on probation after conviction in a criminal case in a salary county. You have not referred us to any authority which distinguishes between fee counties and salary counties concerning liability of a convicted defendant for costs in a criminal case and we have found none. Therefore this opinion applies to both such counties.

Section 31 of Article 781b, Vernon's Code of Criminal Procedure, reads:

"For the purpose of determining when fees are to be paid to any officer or office, the placing of the defendant on probation shall be considered a final disposition of that case, without the necessity of waiting for the termination of the period of probation or suspension of sentence."

The language "for the purpose of determining when fees are to be paid to any officer or office" makes plain that all such fees become due and payable at the time the defendant is placed on probation so that process may issue therefor. Language that is plain is not subject to construction. The assessment and collection of costs is not affected by placing the defendant on probation.

SUMMARY

Sec. 31 of Art. 781b, V. C. C. P. provides that the fees are to be paid to the officers at the time the defendant is placed on probation even though the case be tried in a salary county.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *W. T. Williams*
W. T. Williams
Assistant

WTW:wb

APPROVED:

Fagan Dickson
FIRST ASSISTANT
ATTORNEY GENERAL